

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

SB 959 - HB 1199

February 19, 2013

SUMMARY OF BILL: Requires the state and all local governments selling property originally acquired by eminent domain to first offer for sale the property to the previous owner from whom the property was taken, or their ascertainable heirs who were living at the time the property was taken, when the acquired property was not utilized for its intended purposes and the condemning entity subsequently decides to sell the property within 10 years of being condemned or taken. Requires the original property owner or heirs to have a 30-day period to sign an agreement to purchase the property for the same amount of compensation paid by the condemning entity. Authorizes the condemning entity that acquired the property through eminent domain to offer for sale the property to the general public at fair market value following the end of the 30-day period extended to the previous owner or heirs. Requires all local governments to conduct public hearings, not in conjunction with a regularly scheduled local legislative meeting, before the use of eminent domain and to approve any use of eminent domain by a majority vote of the local legislative body.

ESTIMATED FISCAL IMPACT:

Decrease State Revenue - \$100,000/Recurring/Highway Fund

Increase State Expenditures - \$10,000/Recurring/Highway Fund

Decrease Local Revenue – Exceeds \$10,000

Increase Local Expenditures – Exceeds \$10,000/Mandatory*

Exceeds \$10,000/Permissive

Assumptions:

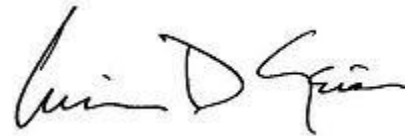
- The bill will result in a mandatory cost applied to the permissive action of eminent domain for local governments.
- According to the Department of Transportation (TDOT), this bill will result in the Department violating federal law 23 CFR 710.401(d) that requires any surplus right-of-way property acquired with federal-aid funds to be sold at current fair market value.
- According to TDOT, being in violation of this federal law may result in the Administrator of the Federal Highway Administration (FHWA) withholding federal funds from the state pursuant to federal law 23 CFR 1.36 until such time as the FHWA declares the state is no longer in violation of federal law.

- TDOT estimates this bill will result in a recurring decrease in state revenue of \$100,000 from the highway fund as a combined result of the FHWA withholding federal funds for being in violation of federal law, as well as a decrease in state revenue resulting from the sale of surplus property, which is sold at fair market value under current law, being sold for the price paid when it was originally acquired as a result of the bill.
- Based on information provided by TDOT, it is estimated there will be a recurring increase in state expenditures of \$10,000 from the highway fund for administrative costs associated with locating previous owners and heirs.
- The revenue impact of this bill on local governments is dependent upon multiple unknown factors, including but not limited to, the number of instances that local governments will be required to sell property acquired by eminent domain back to the original owner or heirs, the original price paid for the acquired property at the time of taking, and the current fair market value of the acquired property. Given the extent of unknown factors, determining a precise revenue impact to local governments is difficult. However, the recurring decrease in local government revenue is reasonably estimated to exceed \$10,000.
- Mandatory increase in local government expenditures associated with locating previous owners and their heirs is reasonably estimated to exceed \$10,000 per year.
- Permissive increase in local government expenditures associated with required public eminent domain hearings, including costs for notification and per diem to commission members, is reasonably estimated to exceed \$10,000 per year.

**Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

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